

Court No. 2
09.9.2025
(Item No. 30)
(AB)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 1249 of 2023
+
CAN 4 of 2025
+
CAN 5 of 2025

Sri Jagadish Prasad Agarwal & Ors.
VS
The State of West Bengal & Ors.

Mr. Jaydip Kar, Sr. Advocate (VC)
Mr. Amales Ray, Sr. Advocate
Mr. Nigam Mittal
.... For the petitioners
Mr. Subir Kumar Saha, Ld. AGP
Mr. Momenur Rahman
.... For the State
Ms. Supriya Singh
.... For respondent nos. 6,7 & 24
Mr. Bijay Bikram Das
Mr. Deborshi Dhar
.... For Siliguri Municipal Corporation

In Re: **CAN 4 of 2025**

Yesterday's order speaks for itself.

Considering the urgency involved in this matter which is why the vacating application taken out by the added respondent No. 24 has been taken up and this Court straight way goes to the crux of the dispute needs to be addressed immediately, as the project for widening of highway is involved which is a matter of national importance attached with a public cause.

The parties admit that pursuant to an order of the co-ordinate bench dated **January 5, 2024**, **annexure R-7** at **page 29** to the **affidavit-in-**

opposition filed by the writ petitioners to the vacating application, necessary inspection was directed and then to cause a proper demarcation of the acquired land arising out of **R.S. Plot No. 460, Mouza - Mondalaguri**. The relevant observation from the said order dated **January 5, 2024** is quoted below:

“The learned Advocate appearing for the State files a report dated 04.01.2024 of the Officer-in Charge, SMC area (LR) Siliguri being the respondent no.8 in the writ petition.

Upon perusing the said report it appears that 2.78 acres of land in RS Plot No. 460 within Mouza Mandalaguri was acquired for the purpose of development of regulated market under the Central Government Scheme at Siliguri and an area of about 1.00 acres was acquired vide Notification dated 05.02.1987 for the purpose of widening the National Highway 31. Plot no.460 is a large plot measuring 4.51 acres. Out of the total area of 4.51 acres an area of about 2.78 acres and 1.00 acres i.e. total 3.78 acres appears to be the subject matter of acquisition under different acquisition proceedings.

The petitioners claim that they are the owners of 0.78 acres of land in the plot No.460 and have an apprehension that their property may be encroached upon.

Since only a portion of plot No.460 has been acquired, unless the portion which has been acquired is demarcated, the remaining portion which has not been acquired cannot be ascertained.

In view thereof, this Court is of the considered view that a survey of RS Plot No.460 is to be made by properly demarcating the portions of the said plot which is the subject matter of the aforesaid acquisition proceedings.

Let such demarcation be made under the supervision of the Land Acquisition Collector, Darjeeling being the 5th respondent The work of demarcation shall be carried out in the presence of the officials of the respondent no.9, Siliguri Regulated Market Committee and respondent no.12 i.e. Siliguri Municipal Corporation.

The SRO-II and Officer in-Charge, Siliguri Municipal Corporation Area (LR) is directed to depute a team of competent Surveyors, Amins and cooperate with the 5th respondent for the purpose of demarcation.

Let such work of demarcation be completed by the 5th respondent within a period of three weeks from the date of receipt of a server copy of this order upon prior notice to the petitioners and the aforesaid respondents.”

Pursuant to and in terms of the said direction of the co-ordinate bench, the Special Land Acquisition Officer, Darjeeling/respondent no. 5 has submitted a report on **January 25, 2024**, at **pages 42 and 43** to the said affidavit-in-opposition. The relevant content of the report is quoted below:

“In compliance to the order of the Hon’ble High Court dated 05-01-2024, the demarcation of suit plot No. 460 of mouza Mandalguri, J.L. No. 85, P.S. Siliguri, Dist – Darjeeling was conducted in the presence of the

petitioner of this Court case and all concern officials, on 22nd and 24th January, 2024 and after thorough demarcation, it is found that the land which is claimed by the petitioners (of his land) falls within the acquired land for N.H. 31 vide Notification No. 472/LA (PW)/LR-33/86 dt. 05-02-1987 published in the Calcutta gazette on 11-03-1987, possession this acquired land has handed over to the N.H. 31 on 10-07-1968 and the acquisition. Compensation of the same land has also been paid to the than owner (1) Smt. Manju Devi W/o Sri Ashok Kr. Agrawala and (2) Smt. Sumita Devi w/o Sri Anand Kr. Agarwala.”

In view of the above, the claim of the petitioners over the land which has already been acquired in the year 1967-68 is not justified.

Emclo:- Attendance sheet of the persons who have attend the demarcation.”

After considering the submissions made on behalf of the parties and the urgency for vacating the interim order which is in existence, as prayed for on behalf of respondent no. 24, at the outset, this Court is of the considered view that, the report prepared and submitted by the respondent no. 5 is not at all in compliance with the direction of the co-ordinate bench dated **January 5, 2024**, as would be evident from the quoted portions above.

This Court is surprised to see the said report submitted by the respondent no. 5, which is not at all in sync with the direction of the co-ordinate bench.

This Court is also surprised that the urgency of a State wing being respondent no. 24, relating to a public project, who is supposed to complete the project on or before **September 19, 2025** was also not appreciated by a State authority while preparing the report.

Be that as it may, it is also an admitted fact that **0.73 acres** of land in **R.S. Plot No. 460** still remains beyond acquisition and the owners in respect of the said land still holds the right, title and interest there upon. Therefore, the right of the owners in respect of the said land is also required to be protected in due process of law.

In view of the above, the said report of the respondent no. 5 dated **January 25, 2024**, at **pages 42 and 43** to the said affidavit-in-opposition, stands **set aside** and **quashed**.

Considering the urgency in the matter and considering the fact that the earlier report was not in accordance with the spirit and terms of the order of the co-ordinate bench, this Court is of the view that, a learned member of the Bar may be appointed as Special Officer to oversee the entire steps.

Accordingly, **Ms. Matan Chakraborty**, learned advocate, a learned member of the Bar is appointed as Special Officer to oversee the entire steps to be taken by the respondent no. 5 strictly in compliance and

terms of the said order dated **January 5, 2024**. The respondent no. 5 while carrying out the direction of the said co-ordinate bench shall take assistance of the respondent no. 8 and the respondent no. 8 shall assist the respondent no. 5 and render all cooperation in every respect.

The necessary inspection shall positively be carried out and the report shall be prepared positively within **one week** from the date of communication of this order to the respondent no. 5.

This time notice of inspection shall also be served upon the added respondent no. 24 in whose presence the inspection shall be carried out. Save and except this direction all other directions of the co-ordinate bench dated **January 5, 2024** remains unaltered and without any modification and must be and should be complied with in its true spirit and effect by the respondent no. 5 forthwith within the said period, as directed above.

The report shall be filed by the respondent no. 5 positively within a period of **three working days** from the date of the inspection to be made before the **Learned Registrar, Circuit Bench at Jalpaiguri**.

The parties shall be at liberty to make a formal request to the Learned Registrar to enable them to obtain copies of the report.

The entire cost and expenses including travelling of the learned Special Officer shall be borne by the petitioners. In addition, the learned Special Officer shall be paid a consolidated one time **remuneration of Rs.50,000/-** to be paid by the petitioners.

The learned Special Officer shall file her report in a sealed cover before the learned Registrar of this Circuit Bench immediately upon her assignment will be over. The learned Registrar of this Circuit Bench shall keep the report with the original record of this case and shall produce the same before the Court on the next date.

Upon the report being submitted by the respondent no. 5 before the learned Registrar of this Circuit Bench, the learned Special Officer will **automatically** stand **discharged** without any further reference to this Court.

Considering the urgency involved in this writ petition, the parties upon notice to each other, shall be at liberty to mention this matter before the principal bench and/or the next available Circuit Bench for further consideration of this application.

(Aniruddha Roy, J.)